



and its impact on the proceeding, (3) the reason for the delay and whether it was within the control of the movant, and (4) whether the movant has acted in good faith. *Id* (internal quotations omitted).

Here, Counsel's cause for failing to file the reply on time was he did not re-review the Court's procedures when he began writing the reply. The reason for Counsel's delay was entirely within his control and was merely an oversight due to multiple overlapping motion deadlines in other litigation, and a good faith error. Counsel reviewed the Court's procedures prior to filing the complaint, but only rechecked the local rules when determining the due date for the reply and did not realize this Court places a shorter deadline on reply briefs than the local rules. As the final brief filed on this motion, it is Counsel's belief that Defendants would not suffer prejudice in allowing Plaintiffs to file this reply, which is only two days late.

Counsel understands that failing to file the reply on time was neglect, but as three of the four factors for evaluating his neglect weigh in favor of it being excusable, the interest of justice would be served by this Court granting the extension.

### **Conclusion**

For the above reasons, Plaintiffs respectfully ask this Court to GRANT the Motion and extend the response deadline through and including Wednesday, October 9, 2019.

**Respectfully submitted,**

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### **CERTIFICATE OF CONFERENCE**

Plaintiffs' counsel conferred with Defense counsel Suzanne R. Chauvin and Judith L. Ramsey by email, but did not receive a response.

/s/ Austin Whatley  
Austin Whatley

### **CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on October 9, 2019, the foregoing document, and any accompanying exhibits, was served by CM/ECF as follows:

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